DOCUMENT RESUME

ED 236 711 CS 504 363

AUTHOR Selby, Holly E.
TITLE Exemption 4: Trade Secrets under the Freedom of Information Act.
INSTITUTION Freedom of Information Center, Columbia, Mo.
REPORT NO FOI-477
PUB DATE Jul 83
NOTE 9p.
AVAILABLE FROM The Freedom of Information Center, Box 858, Columbia, MO 65205 ($1.00, quantity discounts available).
PUB TYPE Information Analyses (070)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Affirmative Action; Business; Confidentiality; *Court Litigation; *Disclosure; Economic Status; *Federal Legislation; *Government Role; Information Storage; *Records (Forms)
IDENTIFIERS *Freedom of Information Act

ABSTRACT

Exemption 4 of the Freedom of Information Act (FOIA) protects from disclosure by government agencies privileged and confidential trade secrets and commercial or financial information. Based on early Exemption 4 litigation, courts have devised a "substantial competitive harm test" to decide whether requested information should be covered by the exemption. In "Chrysler Corporation v. Brown," which marked a turning point in the issue of access to business information submitted to government agencies, the Defense Logistics Agency (DLA) had decided to release information requested about Chrysler's affirmative action plan and other equal opportunity information. The DLA argued that the Trade Secrets Act did not apply to the information requested. Chrysler countered that Congress intended at least some of the FOIA exemptions to be mandatory, and that disclosure was prohibited under the Trade Secrets Act. Although the court ruled that Chrysler did not have a private right of action to stop disclosure under the Trade Secrets Act, it did note that Chrysler could seek review of DLA's decision to disclose as an aggrieved party under an administrative procedure act. This decision has had a far reaching impact on subsequent FOIA cases, since business may no longer safely rely on the FOIA exemptions as a means to prevent agency disclosure of information. Complaints about the FOIA's cost and inefficiency and the current Presidential administration's disfavor of strenuous disclosure efforts generated proposals to amend the FOIA that would increase protection of confidential business information and require agencies to develop procedural regulations for designating submitted material as confidential. (HTH)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

X This document has been reproduced as received from the person or organization originating it.
Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

FOI

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

SCHOOL OF JOURNALISM, UNIVERSITY OF MISSOURI AT COLUMBIA
JULY, 1983

ED236711

EXEMPTION 4: TRADE SECRETS UNDER THE FREEDOM OF INFORMATION ACT

FREEDOM OF INFORMATION CENTER REPORT NO. 477

This report was written by Holly E. Selby, a master's candidate at the University of Missouri School of Journalism.

Robert C. Scott, vice-president for administration of the Agriculture Chemical Division of the Mobay Chemical Corp., Kansas City, Mo., says his company stamps the word "confidential" on every piece of information it submits to a government agency in hopes of discouraging release of the data.[1]

Herbert Watchtell, in a **Business Lawyer** article, advised all businesses that submit information to government agencies to, if possible, avoid giving the document to the agency; endeavor to obtain a promise of confidentiality from the agency; stamp every page with the words "confidential under an FOIA exemption"; and obtain a promise that the agency will notify the submitter of any requests for the business information.[2]

Those are just two examples of the fear many business executives have that the information they send to government agencies will be released to the public, resulting in damage to their competitive positions. In response to those fears, businesses and the Reagan administration are promoting measures that would increase greatly the amount of information protected by the fourth exemption to the Freedom of Information Act.

In 1981, Katherine Graham, chairman of the Washington **Post** Co., told the national convention of Sigma Delta Chi members that "Nothing so diminishes democracy as obsessive and needless secrecy. Never has it been so important that the right of people to know the actions of their government be secure."[3]

The flip side of the story is that the bulk of FOIA requests come from private businesses and their attorneys. For example, 85 percent of FOIA requests submitted to the Federal Drug Administration are from private businesses. The Federal Trade Commission says 75 percent of its FOIA requests originate with businesses. Those business-minded FOIA requesters often are using the act to try to obtain information that could enhance their positions in the competitive world of business.

As Jack D. Early, president of the National Agricultural Chemicals Association, told a congressional subcommittee in 1981: "Firms say the FOIA is more often a funnel for competitive secrets than a reasonable vehicle for the release of basic information on agency practices."[4]

Such complaints, added to arguments the FOIA is costly and inefficient and the current administration's disfavor for strenuous disclosure efforts, have helped foster an atmosphere for changes in the FOIA. Three bills to amend the act have been presented to the Senate Judiciary Committee within the past year. Two of the measures have received the most attention.

The first, proposed by Sen. Orrin Hatch (R-Utah), chairman of the committee's constitution subcommittee, is a combination of his earlier bill plus one that represents the freedom of information ideas of the administration. The second bill belongs to Sen. Patrick Leahy (D-Vermont), who was the ally of civil liberties groups and the press during last year's congressional battles over the FOIA. Hearings on both measures were held April 18 through April 21, 1983.

Proposals and hearings about amendments to the FOIA are not new. Congressional debates have been going on for several years. In time, a compromise approach to the fourth exemption that, presumably, will balance the interests of the public against the desires of businesses to keep information confidential will be forged.

Summary

The 1979 Supreme Court decision in **Chrysler Corp. v. Brown** raised as many issues as it settled about the status of business information under the FOIA. This article explores the issues raised preceding and subsequent to that decision.

CS 504363

UNDERSTANDING THE FOURTH EXEMPTION

The fourth exemption of the Freedom of Information Act, 5 U.S.C. 552 (b) (2), protects from disclosure by government agencies "trade secrets and commercial or financial information obtained from a person and privileged or confidential." The exemption has been described as "probably the most troublesome provision of the act."[5] The trouble lies in the vagueness of the exemption's phrasing and the lack of procedural and legal guidelines with which agencies and courts can combat the onslaught of FOIA requests and reverse FOIA cases.

TRADE SECRETS

It is now recognized by courts that the fourth exemption encompasses two categories of information. The first is "trade secrets." The Restatement of Torts broadly defines such a trade secret:

> A trade secret may consist of information which is used in one's business, and which gives him an opportunity to obtain advantage over competitors who do not know or use it.[6]

Because that definition covers virtually any information submitted to the government by businesses, courts have relied upon a different definition of trade secrets, one made explicit in the 1969 case of **Consumers Union v. Veterans Administration**:

> An unpatented, secret, commercially valuable, plan, appliance, formula or process, which is used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities.[7]

COMMERCIAL AND FINANCIAL INFORMATION

The second category of information, "commercial or financial business information," has been the main source of debate about the fourth exemption. As Professor Kenneth C. Davis explained in his **Administrative Law Treatise**:

> The most important fact about the legislative history is that no explanation appears for the addition to the fourth exemption of the words, 'commercial or financial. . . .' Not only was no explanation ever made. . . but both the Senate committee and the House committee in their reports seem to read the words, 'commercial or financial,' as if they were not there.[8]

The fourth exemption does not include guidelines for the legal treatment of the second category of information, nor does it include suggestions about procedures agencies should follow when determining whether submitted information falls under the exemption. Because of such a lack of guidance, courts' interpretations of the exemption have changed over the years.

TWO TESTS OF CONFIDENTIALITY

In early fourth exemption cases, courts used a "promise of confidentiality" test to decide whether information was to be covered under the exemption. The test came from the 1966 House report on the FOIA:

> It would also include information which is given to an agency in confidence, since a citizen must be able to confide in his Government. Moreover, where the Government has obligated itself in good faith not to disclose documents or information which it receives, it should be able to honor such obligations.[9]

Unfortunately, the promise of confidentiality test does not explain when such promises should be granted to submitters. Because there may be no particular reason an agency might wish to disclose information other than its obligation under the FOIA, and because requests for confidentiality generally come from submitters who do business with the agency, information often would be withheld.

The next step in the evolution of judicial interpretation arose out of the 1965 Senate report on the FOIA. The new test was called the "expectation of confidentiality test," and said in part,

> This exception is necessary to protect the confidentiality of information which is obtained by the Government through questionnaires or other inquiries, but which would customarily not be released to the public by the person from whom it was obtained.[10]

The expectation of confidentiality test proved less subjective than the promise of confidentiality test because the unresolved question was still left up to the submitter: **Would the person submitting the information normally release it to the public?** A 1978 report by a congressional committee said any test based upon business practices likely would prove inadequate because businesses rarely release information to the public. The most important question, the committee maintained, was not whether the information was usually withheld, but why it should be withheld.[11]

THE SUBSTANTIAL COMPETITIVE HARM TEST

In the important 1974 FOIA case, **National Parks and Conservation Ass'n v. Morton**, the U.S. Court of Appeals for the District of Columbia Circuit decided the "expectation test" was not objective enough to set the parameters of the fourth exemption. The court said the fourth exemption has two

general purposes; to protect the interests of businesses that submit information, and to protect the interests of the government. The court then set down a new test of confidentiality;

> . . . (C)ommercial or financial matter is confidential. . . if disclosure of the information is likely to have either of the following effects: (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.[12]

This new formula, called the "substantial competitive harm test," was widely accepted by most other courts. Members of the business world, however, said the test was too narrowly drawn to protect all business information that falls under the fourth exemption. Critics argued the test should be more objective, that the key question should be whether the information customarily would be released. Critics contend that instead of enabling the public to freely obtain information about its government, the FOIA has provided access to large amounts of information about private businesses. Furthermore, they argue, courts' interpretation of the fourth exemption has eviscerated any protection the act may have afforded.[13]

REVERSE FOIA CASES

The first "reverse FOIA" case was filed in 1973. Since then, the judicial system has been jammed each year with hundreds of such cases. A "reverse FOIA" case is one in which a submitter of information seeks to stop an agency's disclosure of the information. The requester of the information may choose to intervene in the reverse FOIA case or opt to file a regular request under the act. The submitter bears the same burden of meeting the requirements of the fourth exemption as agencies do in in normal FOIA cases.

Reverse FOIA cases have generated a great deal of legal confusion. Some courts have allowed information falling within the fourth exemption to be released at the agency's discretion.[14] Others have held that information falling within the exemption's ambit is barred from disclosure. [15] In 1979, the U.S. Supreme Court answered some of the questions circling around the exemption. The high court said the fourth exemption is purely a discretionary statute that did not provide a submitter with a private right of action to enjoin disclosure by an agency.[16]

CHRYSLER CORP. V. BROWN

The **Chrysler Corp. v. Brown** case marked a turning point in the issue of access to business information submitted to government agencies. On April 18, 1979, the high court ruled that the FOIA's nine exemptions are guidelines to help agencies identify information to which mandatory disclosure does not apply.

The exemptions are permissive, not mandatory.The high court said there must be specific authority, either by statute or agency regulations properly based on statutes, against disclosure to justify the withholding of the information. As stated in the May 1, 1979, issue of **Access Reports**, the ruling "clearly puts to rest a line of reasoning that held that Congress intended the exemptions to be categories of information that must be withheld."[17]

The **Chrysler** case involved the federal Defense Logistics Agency. The agency had decided to release information requested about Chrysler Corp.'s affirmative action plans as well as other equal-opportunity information that Chrysler, as a government contractor, had been required to submit to the federal government. Chrysler wanted the information to be withheld.

The DLA argued that FOIA exemptions were discretionary, that the Trade Secrets Act (18 U.S.C. 1905) did not apply to the information requested, and that the agency's regulations requiring disclosure had the force of law.

Chrysler countered that Congress intended at least some of the FOIA exemptions to be mandatory, that disclosure was prohibited because the requested information fell under the Trade Secrets Act, and that the FOIA gave submitters an implied right to contest the release of information.

Justice William Rehnquist wrote the court's unanimous opinion. He wrote that although the act's nine exemptions "reflect a sensitivity to the privacy interests of private individuals and non-governmental entities," it did not necessarily follow that "(t)he exemptions impose affirmative duties on an agency to withhold information sought. In fact, that conclusion is not supported by the language, logic or history of the Act."[18]

The court said the agency's contention that the Trade Secrets Act did not address formal agency action was incorrect, but it also rejected Chrysler's argument that the Trade Secrets Act provided the firm with a separate basis for seeking an injunction against disclosure. The high court further ruled that the Trade Secrets Act applied to certain types of information whose release would be prohibited unless disclosure was "authorized by law". The DLA regulations favoring disclosure of the equal opportunity information, the court said, were "interpretive rules" lacking the formal and public development required of "substantive rules" under the Administrative Procedure Act. Thus, the court said, the DLA regulations lacked the necessary force of law to permit disclosure under the Trade Secrets Act.

Although the court said Chrysler did not have a private right of action to stop disclosure under the Trade Secrets Act, it did note Chrysler could seek review of DLA's decision to disclose as an aggrieved party under the Administrative Procedure Act.[19]

REACTION TO THE CHRYSLER DECISION

"A rose by any other name would smell as sweet," said one of the pro-Chrysler attorneys.[20] Even though businesses no longer can rely with assurance on the FOIA to prevent agencies from disclosing information, they nevertheless remain far from powerless. Lynn K. Zusman, special litigation counsel for the Justice Department, said the most important aspect of **Chrysler** is its statement that business information must be protected, even though the decision placed a heavy burden upon the government in favor of disclosure. Zusman said agencies now will try to balance the "substantial competitive harm test" against the disclosure

mandate of the FOIA. Thus, agencies likely will play a stronger role in the FOIA decision-making process.

Many attorneys representing businesses that submit data to the government say that although **Chrysler** shifted the basis upon which companies may win confidentiality from the FOIA to the APA, the decision was "very, very encouraging."[21] Nevertheless, observers agreed the Supreme Court left unresolved several important issues, including:

- What is the scope of the Trade Secrets Act?
- What is the scope of court review allowed under the APA? Submitters, such as Chrysler, want **de novo** review. Government agencies prefer a review only to determine whether the agency abused its discretionary powers.
- What are the standards of proof necessary to show that information falls within the ambit of the Trade Secrets Act? Submitters do not want to use the "substantial competitive harm" test outlined in the **National Parks** case.
- Does the fourth exemption overlap with the Trade Secrets Act. If it does, the exemption may prove to be superflous.
- Whether the Trade Secrets Act is an Exemption 3 statute, which then would permit the withholding of information.[22]

THE ROLE OF AGENCIES

Immediately after **Chrysler**, Barbara Allen Babcock, head of the Civil Division of the Justice Department, said the case's impact extended far beyond the FOIA. Agencies would have to act quickly, Babcock said, to review their disclosure regulations.[23]

A speedy response was necessary because the burden of determining whether data falls under the Trade Secrets Act rests with the agencies. Attorneys have estimated that 100 reverse FOIA cases had been held in abeyance while the Supreme Court ruled on **Chrysler**. Many of those delayed cases now have been sent back to the agencies so they may decide if the information falls within the Trade Secrets Act.[24]

According to some attorneys, the sudden, heavy burden of decision-making that has fallen on the shoulders of agency employees may have a chilling effect on those employees who wish to disclose information. The Trade Secrets Act threatens government employees who disclose information without proper authorization with imprisonment. That threat could make agency employees more inclined to deny disclosure requests.[25] Critics of **Chrysler** hoped the courts would interpret the Trade Secrets Act narrowly, and dramatically described the act as a "dinosaur from the past that may potentially expose countless federal employees to imprisonment."[26]

Agencies soon began the predicted review of their disclosure regulations. On June 15, 1979, the Justice Department's Office of Information Law and Policy sent guidelines to all agencies with pending reverse FOIA cases. The guidelines described the procedures to be followed when processing an FOIA request or a reverse FOIA case.

The guidelines were followed by letters containing more complete descriptions of the procedures to be followed. The office described the procedures as an "equitable and expeditious" approach toward balancing the public's need for access against the desires of submitters to keep information secret. Agencies were instructed to follow the following steps when ascertaining whether requested information should be disclosed:

- Contact the requesters to make sure they are still interested in obtaining the data;
- Determine whether the Trade Secrets Act can be applied to the information. If the information falls under the act, "the agency must ascertain whether there is an applicable statute which either authorizes release itself or provides sufficient 'nexus' within the meaing of **Chrysler** to support the promulgation of a disclosure regulation, and whether such a regulation has been validly promulgated" (under the Administrative Procedure Act).
- Base every decision to disclose on the harm likely to result and weigh it against the public's interest in disclosure. Information not within the scope of the fourth exemption must be released, regardless of whether it is within the Trade Secrets Act, but agencies must refer any disputed information to the Justice Department to be sure there are no injunctions against its disclosure.[27]

The Justice Department's Office of Information and Privacy published additional agency guidelines in the June 1982 issue of its **FOIA Update**.

Agencies should;

- Provide submitters prompt written notice of FOIA requests;
- Allow submitters ten working days to object to a proposed disclosure;
- Provide detailed reasons why it has decided to disclose the data;
- Send a written notice of its final administrative decision not less than ten working days before disclosing any information to allow the submitter to seek judicial review.

OIP said its recent survey of 50 agencies' administrative disclosure practices revealed that several lacked formal procedures for providing submitters "full notice and objection rights." The survey also indicated agencies with formal procedures often lacked adequate methods of enforcement.

Nevertheless, the OIP concluded the survey revealed "the prevailing practice across the government to notify and consult with the submitters of business information before deciding whether or not to disclose the data requested under the FOIA." OIP found an exception to that conclusion in the Federal Drug Administration, which took the position it had the expertise to make confidentiality decisions without consulting submitters.

OIP said there was widespread concern in the business community that firms are not "universally receiving the protection that they require." That concern, OIP said, has lead to a growing reluctance among businesses to submit data to government agencies when asked to do so.

1981 EFFORTS TO AMEND THE FOURTH EXEMPTION

A leading role in efforts to amend the FOIA has been played by Sen. Orrin Hatch. In October, 1981, he presented

Senate bill #1730, his "Freedom of Information Reform Act," to the constitution subcommittee of the Senate Judiciary Committee. In regard to the fourth exemption, Hatch's proposal would have greatly increased the amount of protection afforded information submitted by businesses.

One of Hatch's reasons for amending the FOIA was the estimated $50 million annual cost of processng requests for information under the current law, arguing "the government does not have any explicit constitutional obligation to provide information but in fact may withhold information and may even exercise prior restraint of information already in the public domain."[28]

Under Hatch's 1981 proposal, a requester of business information claimed to be a trade secret would have had to wait 75 days to receive the material. The submitting company would have had ten days to object to disclosure and five days to request a hearing from the agency. The agency would have had to schedule the hearing within 30 days and make its decision within 30 days. After a decision was reached, the agency would have had to wait an additional ten days before releasing the information.

One week after Hatch submitted his proposal, Assistant U.S. Attorney General Jonathan C. Rose presented the Reagan administration's plan to the subcommittee. That measure would have made even greater changes than proposed under Hatch's bill. Under the administration's bill, a business that objected to an agency's disclosure decision could receive **de novo** judicial review of the decision. Agencies would have been prevented from releasing business data if the submitter protested its disclosure, unless "failure to do so would injure an overriding interest."

Both Hatch's and the administration's proposals would have protected confidential business information that "may" impair the government's ability to collect information in the future or whose disclosure "may" impair the competitive financial or business interests of any person.[29] Courts currently hold that the fourth exemption protects information whose release is "likely to" impair the government's ability to obtain information or cause substantial competitive harm to the submitter.[30]

PRESS REACTION

Not surprisingly, press reaction to the two proposals was not positive. H.L. Stevenson, editor-in-chief and vice-president of United Press International, said;

> To be sure, the Act is expensive to operate. Some put the cost of funding, censoring and copying documents at as much as $57 million a year. While that's a big number, it is about half of what we spend on military bands. The price tag of liberty is not entirely musical.[31]

In a sharper response, Jack Landau, director of Reporters' Committee For Freedom of the Press, called the Reagan proposal a "frontal assault. . . . (A) major mutiliation of the public accountability of government which unlies the act."[32] Landau noted the admininstration's bill would exclude from FOIA coverage business information about dangerous foods and drugs, unsafe consumer goods, misleading advertising and similar commercial information.

At its annual convention in Toronto, Canada, on Oct. 23, 1982, the Associated Press Managing Editors called upon newspapers in the United States to join in opposition to the proposals.[33]

1982: 'FINE-TUNING' THE FOIA[34]

Hatch's bill, as amended by Sen. Patrick Leahy, was approved unanimously May 20, 1982, by the Senate Judiciary Committee, only to languish for the remainder of the 97th Congress. The business community had lost its battle to gain greater protection for information sent to agencies.

Under the substitute for Senate bill #1730 bill, now a combination of the administration's and Hatch's bill, agencies would have been required to notify a company within ten days of receipt of a request for submitted information. Submitters would have been granted ten days to state any objections to disclosure. Agencies would have been prohibited from disclosing information before ten days after its final decision to disclose.

Sens. Hatch and Leahy , the two protagonists in the struggle to work out a compromise, later signed a joint statement which read, in part:

> As principal participants in these lengthy negotiations, we both hoped that Congress would have enacted amendments to the Freedom of Information Act. Unfortunately, the 97th Congress will adjourn without such action. We both believe that a strong Freedom of Information Act must be preserved, but that some amendments to the current Act are in order. The task of amending the Act in light of current circumstances will be for the 98th Congress.[35]

1983 — RE—MANNING THE BATTLE STATIONS

On March 11, 1983, Sen. Hatch introduced another FOIA bill, Senate bill #774. His proposal included the same proposed changes found in Senate bill #1730 from the previous year. On June 14, the Senate Judiciary Committee approved the measure.

A section of the bill deals with confidential business information. Agencies would be required to develop regulations specifying procedures by which submitters may be required to designate certain information exempt from disclosure under the fourth exemption and by which agencies would notify submitters that a request for the information had been made. The submitter would be able to object to a proposed disclosure within ten working days of notice of the request.

An agency would not have to notify a submitter of a request if the information had not been properly designated as exempt by the submitter, if the agency determined the request should be denied, if disclosure was required by another statute whose existence the submitter previously had been notified of, if the information had been lawfully pub-

lished or otherwise made available to the public, or if the agency is a criminal law enforcement agency that had acquired the information in the course of a lawful investigation of possible violations of criminal law.

If a submitter were to object to a proposed disclosure, the agency could not disclose the information for at least ten working days after its final decision had been forwarded to the submitter. De novo judicial review would be granted to requesters if they filed within 180 days after the final agency action and to submittters if they filed after the final decision but prior to release. The burden would be on the agency and the submitter to defend the proposed withholding of information.

The **Chrysler** decision has had a far-reaching impact on FOIA cases following in its wake. Because of that ruling, businesses no longer may safely rely on the FOIA as a means to prevent agency disclosure of business information. They may, however, try to contest disclosure on the basis of the Trade Secrets Act, relying in part on procedural challenges under the Administrative Procedure Act.

In **Chrysler**, the FOIA in essence was defined as a disclosure statute with nine exemptions acting as guidelines to help agencies identify information to which mandatory disclosure does not apply. The Supreme Court's decision has opened a torrent of questions about how to handle business information submitted to the government. Congress, principally the Senate, continues to struggle with proposed changes to the fourth exemption. The Supreme Court, itself, in **Chrysler**, hinted at the likely need for further congressional action to resolve the matter: "Enlarged access to governmental information undoubtedly cuts against the privacy concerns of nongovernmental entities, and as a matter of policy some balancing and accommodation may well be desirable."[36]

FOOTNOTES

1. Information Act Too Free, Firms Say," **Kansas City Times**, 1 Jan. 1982, Sec. D-6.
2. Herbert Watchtell, "Business and the Law," **The Business Lawyer**, 21 July, 1979, p. 41.
3. **Organizing Notes**, 12 Nov. 1981, V. 4, p. 4.
4. **Kansas City Times.**
5. Kenneth C. Davis, **Chicago Law Review**, 4 March 1978, V. 9, p. 5.
6. Restatement of Torts, 757, comment (b) at (5) (1939) See also H.R. 95-1382 (1978), p. 15.
7. **Consumers Union of United States v. Veterans Administration**, 301 F. Supp. 796, 801 (S.D.N.Y. 1969).
8. Davis, **Administrative Law Treatise**, 3A.10 (1970 Supp.).
9. H. R. Report, 1497, 89th Congress, 2d sess. 10(1966).
10. S. Report, 813, 89th Congress, 1st sess. 9(1965).
11. Ibid.
12. **National Parks and Conservation Association v. Morton**, 498 F. 2d 770 (1974).
13. T. Patten and K. Weinstein, "Disclosure of Business Secrets Under the FOIA: Suggested Limitations," 29 **Administrative Law Review**, 193, 198 (1977) p. 31.
14. **Westinghouse Electric Co. v. Schlesinger**, 542 F. 2d 1190 (1976).
15. **Charles River Park A" Inc. v. HUD**, 385 F. Supp. 769 (D.D.C. 1974).
16. **Chrysler Corp. v. Brown**, 441 U.S. 281, 99 S. Ct. 1705 (1979).
17. "Special Report," **Access Reports**, 1 May 1979, V. 3, No. 5, p. 2.
18. **Chrysler Corp. v. Brown**, 441 U.S. 292, 99 S. Ct. 1712.
19. "Special Report," **Access Reports**, 1 May 1979, V. 3, No. 5, p. 2.
20. Ibid., p. 1.
21. Ibid., p. 2.
22. Ibid., p. 3.
23. Ibid., p. 12.
24. Ibid., p. 1.
25. Ibid., p. 11.
26. Ibid., p. 11.
27. Office of Information Law and Policy memo to news agencies, 21, 1979, p. 2.
28. S. R. 11296, 97th Congress, 2d sess. 221(a).
29. **Access Reports**, 15 Oct. 1981, V. 7, No. 20, p. 1.
30. Ibid., p. 2.
31. H. L. Stevenson, **UPI Reporter**, 15 Oct. 1982.
32. George Brandon, **Editor & Publisher**, 24 Oct. 1981, V. 14, p. 43.
33. **Editor & Publisher**, 31 Oct. 1981, p. 41.
34. **Access Reports**, 5 Jan. 1983, V. 8, No. 1, p. 3.
35. **Access Reports**, 2 Feb. 1983, V. 9, No. 3, p. 1.
36. **Chrysler Corp. v. Brown**, 441 U.S. 293, 99 S. Ct. 1713.

Below is a list of the most recent **Freedom of Information Reports** available for purchase. A complete listing will be mailed upon request.

400. **Eyeing New York's Newspaper Strike**, (Fishleder), February 1979.
401. **Parents Protest Textbooks**, (Hung), March 1979.
402. **Press Councils in Canada**, (Reddick), March 1979.
403. **The Supreme Court's Search Ruling**, (Kelly), April 1979.
404. **Connecticut's FOI Commission**, (Gentry), May 1979.
405. **Press Access to Jails and Prisons**, (McCormick), June 1979
406. **Access to N.R.C. Records**, (Kalin), July 1979.
407. **A Guide to the F.D.A.**, (Miller), July 1979.
408. **Public Files of the S.E.C.**, (Woodward), August 1979.
409. **The F.T.C.: A Fount of Business Data**, (Bryant), September 1979.
410. **The F.C.C.: A Research Tool**, (Wilson), September 1979.
411. **Access to Federal Officials' Papers**, (Schwaller), October 1979.
412. **Access to Personal Medical Records**, (Weisenstein), November 1979.
413. **Physician Advertising: The Debate**, (Bruhn), November 1979.
414. **National Archives and its Archivist**, (Caprino), December 1979.
415. **The F.C.C. and the Electric Church**, (Abrams), January 1980.
416. **Religious Groups v. TV's Sex, Violence**, (Schicht), January 1980.
* * **FOI Digest Index**. 1970 — 1979, February 1980.
417. **Who Runs Presidential Campaigns?**, (Kindsvatter), March 1980.
418. **Press Relations: Carter's Example**, (Kindsvatter), March 1980.
419. **Pressure Groups v. the Movies**, (Froelich), April 1980.
420. **Foreign Controls on U.S. Media**, (Ramos), May 1980.
421. **The Non-Aligned News Agency Pool**, (Sebaei), May 1980.
422. **Florida's Bold Experiment**, (White), June 1980.
423. **Free Press — Fair Trial Confusion**, (Newman), July 1980.
424. **Speaking Freely on Military Bases**, (Kindsvatter), July 1980.
425. **Publishing Juvenile Names**, (Hubbard), August 1980.
426. **Official Secrecy: Rising or Demising?**, (Appleton), September 1980.

427. **The American Press Ombudsman**, (Mogavero), September 1980.
428. **Access to Congressional Records**, (Relyea), October 1980.
429. **Secrecy in Science**, (Bushman, Porter), November 1980.
430. **The CIA and Censorship**, (Ruffenach), November 1980.
431. **Reporters Committee for Freedom of the Press**, (Gerstein), December 1980.
432. **The CIA — Media Connection**, (Sanderson), January 1981.
433. **Soviet Disinformation**, (Cavenagh), January 1981.
434. **Litigation Costs and Self-Censorship**, (Picard), February 1981.
435. **Minority Broadcasting Ownership**, (Taylor), March 1981.
436. **Minorities in the Media**, (Sherard, Lynch, Heard), March 1981.
437. **FOI and the Fire at the MGM Grand**, (Thompson), April 1981.
438. **Canada's Access Legislation**, (O'Reilly), May 1981.
439. **Access to Computerized Records**, (Pfeffer), May 1981.
440. **Reporter Licensing**, (Henderson), June 1981.
441. **An Adoptee's Right to Know**, (Abernathy), July 1981.
442. **Cryptology and National Security**, (Peterson), July 1981.
443. **Censorship in Public Schools**, (Sneller), August 1981.
444. **Voluntary Press — Bar Agreements**, (Kirby), September 1981.
445. **Missouri Public Service Commission**, (Sickendick), September 1981.
446. **Prior Restraint and the Progressive**, (Wreden), October 1981.
447. **New Zealand's Proposed FOI Law**, (Chetwynd), November 1981.
448. **Discipline of Foreign Correspondents**, (Picard), November 1981.
449. **Fair Information Practices Laws**, (Kilbourne), December 1981.
450. **Proposed FOIA Amendments — 1**, (Perlmutter), January 1982.
451. **Proposed FOIA Amendments — 2**, (Perlmutter), January 1982.
452. **Christians, Consumers and TV**, (Gliatto), February 1982.
453. **The Plight of Public Libraries**, (Rose), March 1982.
454. **Watchdogging the IRS**, (Engardio), March 1982.
455. **Intelligence Identities Protection**, (Sanderson), April 1982.
456. **Newspaper Preservation Act Update**, (Keep), May 1982.
457. **Use of the FOIA**, (Archibald), May 1982.
458. **Attorneys and Advertising**, (Brown), June 1982.
459. **FCC and the Sunshine Act**, (Weiss), July 1982.
460. **High School Press Pressures**, (Rogers), July 1982.
461. **The Prison Press**, (Hausman), August 1982.
462. **The Australian FOI Act**, (Chetwynd), September 1982.
463. **Business and the Media**, (Barchie), September 1982.
464. **Reporter's Privilege**, (Slasman), October 1982.
465. **Columbia Daily Tribune v. Curators of University of Missouri**, (Watt), November 1982.
466. **Functional Illiteracy**, (Hovey), November 1982.
467. **The Department of Education: A Reporter's Guide.** (Shannon), December 1982.
468. **Declassified Documents**, (Brown) January 1983.
469. **Government Classification: An Overview**, (Brown) January 1983.
470. **Voluntary Becomes Standard?: Bar-Press Codes After 'Swedberg'**, (Kates) February 1983.
471. **Rich News: Metropolitan Dailies and the Urban Poor**, (Draper) March 1983.
472. **Demographics and the Dailies: Stalking the Upscale Reader**, (Hausman) March 1983.
473. **Five Years of Right of Publicity: The Aftermath of 'Zacchini v. Scripps-Howard'**, (List) April 1983.
474. **The Federal Advisory Committee Act After Ten Years**, (Keep) May 1983.
475. **Naming the Rape Victim**, (Clay) May 1983.
476. **Exemption 6: Privacy Under The Freedom of Information Act**, (Abbott) June 1983.

Additional copies of this report, and other Freedom of Information Center reports, may be obtained by writing the Center at Box 858, Columbia, Missouri 65205. There is a $1 charge for each single copy, 90 cents each for 25 or more copies, $60 per 100 copies, and $50 per 100 on orders of 300 or more copies.